

## **REMARKS**

### **I. Status of the Application.**

In this Amendment, Fig. 6 and claims 1, 12 and 20 have been amended. Thus, claims 1-6, 9-20 and 25 remain for prosecution.

### **II. The Objection to the Drawings Should Be Withdrawn.**

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) because element 440 was inadvertently labeled as “41” in Figure 6. A second replacement sheet for sheet 8 (Fig. 6) is included in this Amendment. In this second replacement sheet 8, reference number “41” has been replaced with reference number “440”. In addition, to make Fig. 6 consistent with the specification, reference number “60” has been replaced with reference number “90”.

Therefore, it is respectfully requested that the objection to the drawings be withdrawn.

### **III. The Rejection of Claims 1-5, 11-15, 18 and 19 Under 35 U.S.C. § 102(e), Should Be Withdrawn.**

The Examiner has rejected claims 1-5, 11-15, 18 and 19 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Publication No. 2003/0150909 to Markham (“Markham”). Independent claims 1 and 12 have been amended to further recite that product specific data is collected and stored at regular time intervals. It is respectfully submitted that Markham does not anticipate claims 1-5, 11-15, 18 and 19 because Markham does not disclose all of the limitations of these claims. In particular, Markham does not teach collecting and storing product specific data at regular time intervals.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference.”  
*MPEP* § 2131 (citing *Verdegual Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987)).

Markham discloses a system for ensuring that a manufacturing system is operating in accordance with a prescribed budget. (para. [0002, 0009, 0049]). The Markham system allows for pre-defined key performer indicators to be set by a financial department. (para. [0049]). In addition, the Markham system provides for setting financial alerts for pre-defined events and generating a report from the information collected after the event has occurred if that information exceeds the alert. (para. [0057-0062]).

The Markham system is reactive in that it only collects information when an “event” occurs. Markham specifically states that its system “collects, stores, and reports production information ... on an event basis.” (para. [0035]). As defined in Markham, an “event” is “any incident that may affect the productivity of a process or machine in use to produce a product, or that may adversely affect the quality of the product being produced.” (para. [0036]). While the Markham system continually monitors machine data for events relating to productivity and/or product quality, it only logs (i.e. saves) production information when an event (or a certain type of event) occurs. (para. [0035]; *see also*, para. [0214] (a “trigger event” is defined as “an event requiring event data to be entered in the PIPE database”)). In addition, Markham points out that “events may be spaced apart in time by time steps that typically are not constant, and may be

substantially randomly spaced in time, or may be characterized in that the standard deviation of the time step between successive events is large relative to the mean.” (para. [0035]).

Nothing in Markham discloses, teaches or suggests the collection and storage of product specific data at regular time intervals. Rather, Markham expressly states that the Markham system only collects information after a defined event occurs and that such events are randomly spaced in time.

For these reasons, it is respectfully requested that the rejection of 1-5, 11-15, 18 and 19 be withdrawn

**IV. The Rejection of Claims 6, 9, 10, 16, 17, 20 and 25 Under 35 U.S.C. § 103(a) Should Be Withdrawn.**

The Examiner has rejected claims 6, 9, 10, 16, 17, 20, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Markham in view of U.S. Patent Number 6,421,571 to Spriggs et al. (“Spriggs”). Independent claims 1, 12 and 20 have been amended to further recite that product specific data is collected and stored at regular time intervals. It is respectfully submitted that the combination of Markham and Spriggs does not obviate claims 6, 9, 10, 16, 17, 20, and 25 because neither Markham nor Spriggs disclose all of the limitations of these claims. In particular, Markham and Spriggs do not teach collecting and storing product specific data at regular time intervals.

To establish a *prima facie* case of obviousness “all of the claim limitations must be taught or suggested by the prior art.” MPEP § 2143.03 (citing *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974)).

Markham is an event based system that only collects data when an “event” occurs to determine waste and delay. Spriggs teaches collecting data related to equipment or assets to determine when the equipment or assets need maintenance. As explained above, nothing in Markham discloses, teaches or suggests collecting and storing product specific data at regular time intervals. In addition, this limitation is not taught by Spriggs.

For at least these reasons, it is respectfully requested that the rejection of claims 6, 9, 10, 16, 17, 20, and 25 be withdrawn.

**CONCLUSION**

For at least all of the foregoing reasons, it is respectfully submitted that claims 1-6, 9-20, and 25 are allowable. Favorable reconsideration and allowance of this Application is therefore respectfully requested. In the event that the need for payment of any additional amounts has been overlooked, please charge any deficiency to Deposit Account 09-0007. When doing so, please reference the above-listed docket number.

Respectfully submitted,

ICE MILLER LLP

A handwritten signature in black ink, appearing to read "Susan D. Reinecke", is written over the printed name.

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Date: July 25, 2007